

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	CASE NO. 8:06CR351
	)	
Plaintiff,	)	
	)	
vs.	)	TENTATIVE FINDINGS
	)	
CRAIG RUFFIN,	)	
	)	
Defendant.	)	

The Court has received the Presentence Investigation Report ("PSR") and the Defendant's objections thereto (Filing No. 49). The government adopted the PSR (Filing No. 48). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 19 and 20, as well as ¶ 32. More specifically, the Defendant objects to the 2-level enhancement for possession of a dangerous weapon pursuant to U.S.S.G. § 2D1.1(b)(1). The objection will be heard at sentencing, and the government bears the burden of proof by a preponderance of the evidence.

The Defendant has filed a motion for downward departure based on over representation of criminal history. (Filing No. 50.) The motion is supported by a brief. (Filing No. 51.)

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 49) will be heard at sentencing;

2. The Defendant's motion for downward departure (Filing No. 50) will be heard at sentencing;

3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

5. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 3<sup>rd</sup> day of May, 2007.

BY THE COURT:

s/ Laurie Smith Camp  
United States District Judge